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Attorneys for Defendant Wright Timberframe, L.L.C.

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

WESTERN TIMBER FRAME, INC. a Utah
corporation,

Plaintiff,

vs.

WRIGHT TIMBERFRAME, L.L.C., a Utah Limited
Liability Corporation,

Defendant.

ANSWER AND JURY DEMAND

Civil No. 2:14-cv-00741-DBP
Honorable Dustin B. Pead

Defendant Wright Timberframe, L.L.C., by and through its counsel of record, answers the
Plaintiff's Complaint as follows:

FIRST DEFENSE

Defendant Wright Timberframe, L.L.C., hereby admits, denies, or otherwise responds to the
numbered paragraphs of Plaintiff's Complaint as follows:

1. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph one for lack of information.
2. Defendant Wright Timberframe, L.L.C., admits the allegations in paragraph two.
3. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph three for lack of information.
4. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph four for lack of information.
5. Defendant Wright Timberframe, L.L.C., admits it is subject to the jurisdiction of this Court, but denies the remaining allegations in paragraph five for lack of information.
6. Defendant Wright Timberframe, L.L.C., admits the allegations in paragraph six.
7. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph seven for lack of information.
8. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph eight for lack of information.
9. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph nine for lack of information.
10. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 10 for lack of information.
11. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 11 for lack of information.

12. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 12 for lack of information.

13. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 13 for lack of information.

14. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 14 for lack of information.

15. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 15 for lack of information.

16. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 16 for lack of information.

17. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 17 for lack of information.

18. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 18 for lack of information.

19. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 19 for lack of information.

20. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 20 for lack of information.

21. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 21 for lack of information.

22. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 22 for lack of information.

23. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 23 for lack of information.

24. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 24 for lack of information.

25. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 25 for lack of information.

26. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 26 for lack of information.

27. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 27 for lack of information.

28. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 28 for lack of information.

29. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 29 for lack of information.

30. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 30 for lack of information.

31. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 31 for lack of information.

32. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 32 for lack of information.

33. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 33 for lack of information.

34. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 34 for lack of information.

35. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 35.

36. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 36.

37. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 37.

38. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 38.

39. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 39.

40. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 40.

41. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 41.

42. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 42.

43. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 43.

44. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 44.

45. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 45.

46. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 46.

47. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 47.

48. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 48 for lack of information.

49. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 49 for lack of information.

50. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 50 for lack of information.

51. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 51 for lack of information.

52. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 52 for lack of information.

53. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 53.

54. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 54.

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57. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 57.

58. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 58.

59. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 59.

60. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 60.

61. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 61.

62. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 62.

63. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 63.

64. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 64.

65. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 65.

66. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 66.

67. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 67.

68. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 68.

69. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 69.

70. Defendant Wright Timberframe, L.L.C., hereby incorporates its responses to paragraphs one through 69 as if fully set forth herein.

71. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 71.

72. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 72.

73. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 73.

74. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 74.

75. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 75.

76. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 76.

77. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 77.

78. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 78.

79. Defendant Wright Timberframe, L.L.C., hereby incorporates its responses to paragraphs one through 78 as if fully set forth herein.

80. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 80.

81. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 81.

82. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 82.

83. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 83.

84. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 84.

85. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 85.

86. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 86.

87. Defendant Wright Timberframe, L.L.C., hereby incorporates its responses to paragraphs one through 86 as if fully set forth herein.

88. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 88 for lack of information.

89. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 89.

90. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 90.

91. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 91.

92. Defendant Wright Timberframe, L.L.C., hereby incorporates its responses to paragraphs one through 91 as if fully set forth herein.

93. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 93.

94. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 94.

95. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 95.

96. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 96.

97. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 97.

98. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 98.

99. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 99.

100. Defendant Wright Timberframe, L.L.C., hereby incorporates its responses to paragraphs one through 99 as if fully set forth herein.

101. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 101.

102. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 102.
103. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 103.
104. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 104.
105. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 105.
106. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 106.
107. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 107.
108. Defendant Wright Timberframe, L.L.C., hereby incorporates its responses to paragraphs one through 107 as if fully set forth herein.
109. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 109.
110. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 110.
111. Defendant Wright Timberframe, L.L.C., denies the allegations in paragraph 111.

SECOND DEFENSE

As an affirmative defense, Defendant Wright Timberframe, L.L.C., alleges that Plaintiff's alleged trade dress is purely functional.

THIRD DEFENSE

As an affirmative defense, Defendant Wright Timberframe, L.L.C., alleges there is no likelihood of confusion between Plaintiff's alleged trade dress and any of Defendant's accused products.

FOURTH DEFENSE

As an affirmative defense, Defendant Wright Timberframe, L.L.C., alleges Plaintiff's alleged trade dress is not incontestable and is therefore subject to all applicable legal and equitable defenses.

FIFTH DEFENSE

As an affirmative defense, Defendant Wright Timberframe, L.L.C., alleges Plaintiff's Utah State law claims are preempted.

SIXTH DEFENSE

As an affirmative defense, Defendant Wright Timberframe, L.L.C., alleges Defendant's alleged conduct has not violated any Utah Statute or common law principle.

SEVENTH DEFENSE

As an affirmative defense, Defendant Wright Timberframe, L.L.C., alleges Defendant acted in good faith, thereby precluding Plaintiff, even if it prevails, from recovering any punitive damages or reasonable attorney's fees.

EIGHTH DEFENSE

As an affirmative defense, Defendant Wright Timberframe, L.L.C., alleges Defendant's alleged conduct was a nominative fair use of the alleged trade dress.

NINTH DEFENSE

As an affirmative defense, Defendant Wright Timberframe, L.L.C., hereby reserves the right to amend this Answer to add such further and other avoidances and affirmative defenses as may be determined to be applicable on the basis of further discovery.

WHEREFORE, Defendant Wright Timberframe, L.L.C., prays that judgment be entered in favor of Defendant Wright Timberframe, L.L.C., and against Plaintiff, no cause of action, and that Defendant Wright Timberframe, L.L.C., recover its costs of Court, together with such other relief as the Court deems just.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Defendant Wright Timberframe, L.L.C., hereby demands a jury on all causes of action.

DATED this 30th day of October, 2014.

MORGAN, MINNOCK, RICE & JAMES, L.C.

/s Joseph E. Minnock
Joseph E. Minnock
Attorneys for Defendant Wright Timberframe, L.L.C.

CERTIFICATE OF MAILING

I hereby certify that on this 30th day of October, 2014, I caused a true and correct copy of the foregoing **ANSWER AND JURY DEMAND** to be served via the United States District Court's ECF system to the following:

Brett J. Davis
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P.O. Box 1909
Sandy, Utah 84091

/s Lexi Balling